

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re: McPheely, Bernard M., et al

Examiner: --

Serial No.: 10/531,332

Filed: 04/14/05

For: DIGITAL DIAGNOSTIC VIDEO SYSTEM  
FOR MANUFACTURING AND  
INDUSTRIAL PROCESSES

Group Art Unit: --

Docket No.: 036628.00004

Mail Stop PCT  
Commissioner for Patents  
Office of PCT Legal Administration  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

TRANSMITTAL LETTER

Please find the following correspondence items enclosed for filing in the  
United States Patent and Trademark Office: *Int. filing in the Staff International Division*

1. Renewed Petition Under 37 CFR 1.47(a) with Petition Arguments;
2. Copy of Decision on Petition Under 37 CFR 1.47(a);
3. Exhibits A-G; and
4. Return postcard.

Respectfully submitted,

*William D. Lee, Jr.*  
William D. Lee, Jr.

Registration No. 22,660  
McNair Law Firm, P.A.  
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Adjustment Date: 04/14/2006 150000  
01/04/2006 EV 683523551 US  
01 FC:1464 130.00 CR 502079 10531332

I hereby certify that this correspondence is being deposited with the United States Postal Service as "EXPRESS MAIL" mailing label no. EV 683523551 US with sufficient postage and mailing label affixed thereto, in an envelope addressed to: Box Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, VA 22313-1450 on the 29<sup>th</sup> day of March, 2006.

By: *Shirley J. Hirsch*

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Dear Sir:

**RENEWED PETITION UNDER 37 CFR 1.47(a)**

On December 27, 2005, applicants filed a Petition Under Rule 47 because one of the inventors in the above identified patent application refused to sign the Declaration of Inventorship. In a decision dated February 17, 2006 the Office of PCT Legal Administration acting for the Commissioner for Patents denied applicants' Petition stating that applicants; (petitioners') had not shown that a bona fide attempt was made to present the application papers to the inventor who had refused to sign. A copy of the decision is attached. In this renewed Petition it is believed that facts are presented showing that Petitioners have cured the defects in their prior submission. Accordingly, Petitioners present the following facts:

1) Attached hereto as Petitioners' Exhibit A is a letter sent by Certified Mail dated February 23, 2006 from Petitioners' attorney to Mr. Michael S. O'Dea, the inventor who had refused to sign the Declaration. The letter clearly states in the opening paragraph that a Declaration, a copy of the application, claims and drawings are

enclosed. In addition, Exhibit A shows that the inventor was requested to sign the Declaration and that an envelope was provided with return postage.

2) Attached as Exhibit B is a copy of the return mail receipt for the above certified mail letter showing the letter was received by Inventor O'Dea.

3) Attached as Exhibit C is a letter from the inventor, Michael O'Dea to the undersigned Attorney, William D. Lee, Jr., in which the opening subparagraph b. of the opening paragraph contains this statement:

"I do not believe I am under any obligation to continue supporting the pursuit of this patent."

4) Attached hereto as Exhibit D is a copy of the Declaration for Patent Application and Power of Attorney to which Mr. O'Dea refers in his above letter (Exhibit C) which Declaration he signed on October 24, 2003.

5) Attached as Exhibit E is sheet no. 5 from the PCT Application of which the above identified Patent Application (SN 10/531,332) is a National Phase application showing the signature of Mr. O'Dea.

6) Attached hereto as Exhibit F is a copy of the Declaration submitted to Mr. O'Dea as mentioned in paragraph 1 above showing that the Declaration is for the National Phase application designated as PCT/US03/33991, now SN 10/531,332.

7) Attached hereto as Exhibit G is a copy of an Assignment of the invention in the present application signed October 24, 2003 by Inventor O'Dea which is the same date Mr. O'Dea signed the Declaration as Exhibit D.

#### **PETITIONERS' REMARKS/ARGUMENTS**

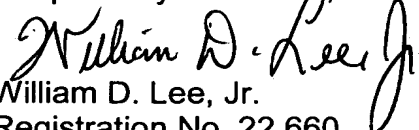
The Notification of Missing Parts mailed September 8, 2005 stated that the Oath or Declaration of inventors needed to identify the application by the International Application number. Petitioner has attempted to get Mr. O'Dea to sign this Declaration (Exhibit F) and this is the Declaration sent to him in the Certified Letter identified shown as Exhibit A. In Exhibits E and F it is shown that Mr. O'Dea had signed the Declarations previously. In Mr. O'Dea's letter in Exhibit C, he

mentions these previously signed declarations; but, now, as can be seen from the tenor of his letter, he is not going to sign anything else because he is not happy with the way the business venture with the other parties turned out. Mr. O'Dea tries to lay down some impossible-to-meet requirements that must be met before he will even consider signing another document. Mr. O'Dea further argues that he has no obligation to sign another Declaration. However, clearly in the last paragraph of the Assignment Mr. O'Dea signed on October 24, 2003 (Exhibit G) he has an obligation to sign the Declaration which he now refuses to honor.

In view of the time limits to file and complete this Renewed Petition and to meet the requirements for filing Missing Parts in the Patent Office, Petitioners should not be required to argue back and forth with Mr. O'Dea when so clearly he has an obligation to sign the Declaration presented to him. He has signed twice before, and now he is refusing to sign simply because of his dissatisfaction with some business arrangements that he chooses to use as an excuse to frustrate Petitioners right to obtain a patent.

In view of the foregoing, Petitioners respectfully request that their Petition be granted and that their submissions in this Renewed Petition and in the original Petition be accepted so that the Notice of Missing Parts is satisfied and prosecution of the application may be begun.

Respectfully submitted,

  
William D. Lee, Jr.

Registration No. 22,660

McNair Law Firm, P.A.

Attorney for Petitioners

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